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CHAPTER Env-A 700 PERMIT FEE SYSTEM

Statutory Authority: RSA 125-C:4

Revision Note:

Document #5033, eff 12-27-90. readopted with amendments Chapters Env-A 100 through Env-A 1200. Part Env-A 703 entitled "Devices Subject to This Chapter" was repealed by Document #5033, which also renumbered the remaining parts in Chapter 700. The history of prior filings for former Part Env-A 703, which contained only rule Env-A 703.01, is as follows: #1865, eff 1-25-82; ss by #2232, eff 4-29-83; ss by #2938, eff 12-27-84. Former Part Env-A 704 is now Part Env-A 703. Former Sections Env-A 704.01a and Env-A 704.02 are now Env-A 703.02 and their source notes have been combined. Sections Env-A 703.03 and Env-A 703.06 are new with Document #5033. Former Part Env-A 705 is now Part Env-A 704. Former Part Env-A 706 is now Part Env-A 705.

PART Env-A 701 PURPOSE, SCOPE, AND REFERENCES

Env-A 701.01 Purpose. The purpose of this chapter is to establish a fee system requiring the payment of fees to cover the reasonable direct and indirect costs of the following:

- (a) Reviewing and acting upon the applications for the issuance of, amendment to, modification to, renewal of, or any combination of the foregoing actions to, a temporary permit, state permit to operate, or title V operating permit;
- (b) Implementing and enforcing the terms and conditions of any temporary permit, state permit to operate, or title V operating permit;
- (c) Administering the state permit program; and
- (d) Developing, implementing and administering the title V operating permit program.

Source. #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03

Env-A 701.02 Scope. Any applicant, owner, or operator of a source or stationary source, area source, or device which requires a temporary permit, state permit to operate, title V operating permit, or any combination of the foregoing permits pursuant to Env-A 600, shall pay all fees as specified in this chapter.

Source. #5033, eff 12-27-90; ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03

Env-A 701.03 References. For the purpose of this chapter, unless otherwise specified, the July 1, 2003 edition of title 40 of the Code of Federal Regulations (CFR) shall control all references to 40 CFR 70.

Source. #8111, eff 6-26-04

PART Env-A 702 APPLICATION REVIEW AND MODELING FEES

Env-A 702.01 Application Review Fee for Temporary Permits.

- (a) The applicant for a temporary permit for a new stationary source, area source, or device pursuant to Env-A 607.01, except as specified in (b), below, shall submit to the department with such application an application review fee of \$2,000.

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(b) The applicant for a temporary permit pursuant to Env-A 607.01(v) shall pay a fee of \$1,000 as specified in Env-A 702.02(a) and Env-A 702.02(b).

(c) If the applicant is subject to fees pursuant to Env-A 703, the applicant shall pay the permit review fee pursuant to Env-A 703.03 instead of the fee specified in (a), above.

Source. #8111, eff 6-26-04

Env-A 702.02 Application Fee for Air Toxics Reviews.

(a) The applicant for a compliance determination for a new stationary source, area source, or device pursuant to Env-A 1400 shall submit to the department with such application an initial application review fee of \$500.

(b) If the department determines that a permit is required solely under Env-A 607.01(v) and the source is not otherwise required to obtain a permit under Env-A 607.01, then the applicant shall submit a subsequent application review fee of \$500.

(c) The department shall bill the applicant for the application review fee pursuant to (b), above.

(d) The applicant shall pay the application review fee pursuant to (b), above, prior to the issuance of the permit.

(e) The department shall not issue the permit until payment of the fee pursuant to (b), above, is received by the department.

Source. #8111, eff 6-26-04

Env-A 702.03 Modeling Fees.

(a) The applicant for a temporary permit for a new stationary source, area source, or device shall submit to the department with such application the following modeling fee, except as provided in (b), below:

(1) For an applicant requesting that the department conduct modeling as specified in Env-A 1406.02, \$1,500; or

(2) For a non-major source subject to Env-A 607.01, \$2,500.

(b) If the applicant submits modeling to the department for review, the applicant shall submit to the department with the modeling the following modeling fee, rather than the fee specified in (a), above:

(1) For an applicant requesting that the department review modeling as specified in Env-A 1406.02, \$1,125; or

(2) For a non-major source subject to Env-A 607.01, \$1,875.

Source. #8111, eff 6-26-04

PART Env-A 703 PERMIT REVIEW FEES

Env-A 703.01 Definitions. For the purposes of this section, the following definitions shall apply:

(a) "Hourly rate" means the annual salary and benefit costs for each department employee who reviews a permit, divided by 1,950;

(b) "Individual personnel review fee" means, for each department employee who reviews the permit, the sum of travel costs, public notification costs, and the product of the number of hours or portion thereof which that person spent working on the particular permit, multiplied by the hourly rate of that department employee; and

(c) "Working on the particular permit" means reviewing the permit to ensure compliance with the standards integrated in the reviews listed in Env-A 702.02 and processing or amending any permit, necessitated as a result of the review.

Source. #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03

Env-A 703.02 Types of Review. The department shall assess permit review fees to the applicant for the following types of permit reviews, where applicable:

(a) National Emission Standards for Hazardous Air Pollutants (NESHAP) review, in accordance with 40 CFR 61 and Env-A 504, or 40 CFR 63 and Env-A 505;

(b) Prevention of Significant Deterioration (PSD) review or PSD avoidance, in accordance with Env-A 619; and

(c) Non-Attainment (NA) review or NA avoidance, in accordance with Env-A 618.

Source. #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04

Env-A 703.03 Determination of Permit Review Fees.

(a) For each permit review as specified in Env-A 702.02 that department personnel undertakes, the department shall assess an individual personnel review fee to the applicant.

(b) Where more than one department employee is allocated to the particular permit review, or where one department employee has differing hourly rates for differing costs and duties accomplished in the reviewing of a particular permit review, the department shall total together every individual personnel review fee in determining the total review fee due to the department.

Source. #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03

Env-A 703.04 Billing for Permit Review Fees. The department shall bill the permit applicant for the permit review fees prior to the issuance of a permit in accordance with the following:

(a) For temporary permits, the department shall bill the applicant prior to issuance of that temporary permit; and

(b) For permits to operate, the department shall bill the applicant at least 60 days prior to the established expiration date of the permit to operate as set forth in Env-A 607.08.

Source. #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03

Env-A 703.05 Payment of Permit Review Fees.

(a) The permit applicant shall pay the department the permit review fees prior to the issuance of a permit.

(b) In the case of a new or modified stationary source, area source, or device, a temporary permit shall not be issued until payment of the fee is received by the department.

(c) In the case of the renewal of a permit to operate, the permit shall expire if payment of the fee is not received by the department on or before the expiration date of the permit to operate as set forth in Env-A 608.08 or Env-A 609.14, as applicable.

Source. #7880, eff 4-26-03

PART Env-A 704 TESTING AND MONITORING FEES FOR TEMPORARY PERMITS

Env-A 704.01 Definitions. For the purposes of this section, the following definitions shall apply:

(a) "Hourly rate" means the annual salary and benefit costs for each department employee who tests, monitors, or both, divided by 1,950;

(b) "Individual personnel testing and monitoring fee" means, for each department employee who tests, monitors, or both, the sum of the costs of travel, lodging, meals, specialty equipment, and consumable supplies, where these costs were incurred specifically in order to carry out the required test or audit, and the product of the number of hours or portion thereof which that person spent testing and monitoring, multiplied by the hourly rate of that department employee; and

(c) "Testing and monitoring" means witnessing, conducting, or evaluating any required emission test, continuous emission monitor certification test, continuous emission monitor audit, or ambient air quality monitoring test pursuant to the procedures in Env-A 800.

Source. (See Revision Note at chapter heading for Env-A 700) #4123, eff 8-25-86; ss by #5033, eff 12-27-90 (formerly Env-A 704.01); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03

Env-A 704.02 Determination of Testing and Monitoring Fees for Temporary Permits.

(a) For any testing and monitoring which department personnel undertake or audit as a condition of a temporary permit proposed to be issued or issued to a source, the department shall assess an individual personnel testing and monitoring fee to the applicant or permittee.

(b) Where more than one department employee is allocated to the testing and monitoring, or where one department employee has differing hourly rates for differing costs and duties accomplished in the testing and monitoring, the department shall total together every individual personnel testing and monitoring fee in determining the total testing and monitoring fee due to the department.

Source. (See Revision Note at chapter heading for Env-A 700) #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2853, eff 9-24-84; ss by #4123, eff 8-25-86; ss by #5033, eff 12-27-90 (formerly Env-A 704.01a and Env-A 703.02); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04

Env-A 704.03 Billing for Testing and Monitoring Fees for Temporary Permits. The department shall bill the applicant, owner, or operator of a stationary source, area source, or device for the testing and monitoring fees after the completion of the required testing and monitoring.

Source. (See Revision Note at chapter heading for Env-A 700) #5033, eff 12-27-90; ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04

Env-A 704.04 Payment for the Testing and Monitoring Fees. Payment for the testing and monitoring fees shall be submitted to the department within 60 days of the billing date.

Source. #7880, eff 4-26-03

PART Env-A 705 EMISSION-BASED FEE

Env-A 705.01 Emission-Based Fee.

(a) In addition to other fees specified in this chapter, pursuant to RSA 125-C:12, IV or V, the owner or operator of a stationary source, area source or device which is required to have a temporary permit, state permit to operate, or title V operating permit, shall pay to the department each year an emission-based fee as calculated each calendar year pursuant to Env-A 705.03.

(b) Pursuant to 42 U.S.C. §7661a(b)(3)(B)(ii)(III), carbon monoxide (CO) emissions shall not be considered a regulated pollutant for presumptive fee calculations for purposes of 40 CFR §70.9(b)(2), and any fees collected under this part resulting from CO emissions shall not be used to support the title V program in this state.

(c) Pursuant to 42 U.S.C. §7661a(b)(3)(B)(iii) and 40 CFR §70.9(b)(2)(ii)(B), any fees collected under this part resulting from emissions of any one regulated pollutant in excess of 4,000 tons shall not be used to support the title V program in this state.

Source. (See Revision Note at chapter heading for Env-A 700) #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90 (formerly Env-A 705.01); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03

Env-A 705.02 Determination of Actual Emissions for Use in Calculating Emission-Based Fee.

(a) The department and all owner or operators of a stationary source, area source, or device shall determine actual emissions in accordance with the methods found in Env-A 616 for use in calculating emission-based fees.

(b) If the emissions calculated pursuant to (a), above, are determined to be less than one ton per year, then the owner or operator shall calculate the emission-based fee using an emission-based multiplier of one ton per year.

(c) A description of the method used for calculating actual emissions shall be submitted to the department with each fee payment.

Source. (See Revision Note at chapter heading for Env-A 700) #1865, eff 1-25-82; amd by #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90 (formerly Env-A 705.02); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04

Env-A 705.03 Calculation of Emission-Based Fee. For the year to which the emission-based fee applies, the calculation of emission-based fees shall be based on the following:

(a) "Emission-based multiplier" means the total of all actual emissions of each regulated air pollutant emitted at a stationary source, area source, or device during the previous calendar year, up to 6,000 tons per regulated air pollutant, excluding amounts of any hazardous air pollutant or regulated toxic air pollutant that has been included as particulate matter or as a volatile organic compound in the actual emissions;

(b) The department shall assess a "dollar per ton fee" of \$60;

(c) "Consumer price index multiplier" means the percentage by which the average of the consumer price index for all-urban consumers published by the U.S. department of labor, as of the close of the 12-month period ending on August 31 of the previous year, exceeds the average of that consumer price index for calendar year 1989;

(d) "Inventory stabilization factor" means the higher number of the following:

(1) The quotient of the total statewide stationary source actual emissions of 40,910 tons per year as determined from the 2002 inventory, divided by the total statewide stationary source actual emissions from the previous calendar year, rounded to the second decimal place; or

(2) One; and

(e) The emission-based fee shall be calculated by multiplying together all of the following:

(1) The "emission-based multiplier" as calculated pursuant to (a), above;

(2) The "dollar per ton fee" as specified in (b), above;

(3) The "consumer price index multiplier" as calculated pursuant to (c), above; and

(4) The "inventory stabilization factor" as calculated pursuant to (d), above.

Source. (See Revision Note at chapter heading for Env-A 700) #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90 (formerly Env-A 705.03); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04

Env-A 705.04 Payment of Emission-Based Fee.

(a) The owner or operator of a stationary source, area source, or device having actual annual emissions of 1,000 tons or less shall pay to the department the annual emission-based fee no later than:

(1) October 15, 2004 for emissions from calendar year 2003;

(2) July 15, 2005 for emissions from calendar year 2004; and

(3) April 15 each subsequent year for emissions from the previous calendar year.

(b) Owners or operators of a stationary source, area source, or device having actual annual emissions greater than 1000 tons shall pay to the department the total emission-based fee by paying in 4 equal installments on a quarterly basis, each installment paying for 3 months of the total annual fee.

(c) Where applicable, quarterly payments shall be made on the 15th day of each of the following months:

- (1) July of the year to which the fee applies;
- (2) October of the year to which the fee applies;
- (3) January of the following year; and
- (4) April of the following year.

(d) The department shall not take any action on a permit until the fees specified in this part have been paid in full and have been received by the department.

Source. (See Revision Note at chapter heading for Env-A 700) #1865, eff 1-25-82; amd by #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90 (formerly Env-A 705.04); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04

Env-A 705.05 Notification for Emission-Based Fee. The department shall notify the owner or operator of any under payments or over payments of the annual emission-based fee.

Source. (See Revision Note at chapter heading for Env-A 700) #1865, eff 1-25-82; amd by #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2853, eff 9-24-84; ss by #2938, eff 12-27-84; amd by #4123, eff 8-25-86; ss by #5033, eff 12-27-90 (formerly Env-A 706.01); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03

Env-A 705.06 NOx Emissions Reduction Fund Fee.

(a) Pursuant to RSA 125-J:13, in addition to the fees specified in this chapter, the owner or operator of a NOx-emitting generation source, as that term is defined in Env-A 3702.01, shall pay to the department each year a NOx emissions reduction fund fee.

(b) The fee in (a) above shall be:

- (1) Calculated in accordance with Env-A 3707.03; and
- (2) Paid by NOx-emitting generation sources as required under Env-A 3701.02.

Source. #7615, eff 12-20-01; ss by #7880, eff 4-26-03

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APPENDIX

Provision of the Proposed Rule	Specific Section of State or Federal Statute or Regulation which the Rule Is Intended to Implement
Env-A 701.01 & 701.02	RSA 125-C:12, IV & V, 42 U.S.C. § 7661a and 40 CFR 70.9
Env-A 701.03	RSA 125-C:4, I(a) and § 40 CFR 70.9
Env-A 702.01 - 702.03	RSA 125-C:12, IV
Env-A 703.01 - 703.05	RSA 125-C:12, IV
Env-A 704.01 - 704.04	RSA 125-C:12, IV
Env-A 705.01	RSA 125-C:12, IV & V, 42 U.S.C. § 7661a, and 40 CFR §70.9
Env-A 705.02	RSA 125-C:12, IV & V
Env-A 705.03	RSA 125-C:12, IV & V, 42 U.S.C. § 7661a, and 40 CFR §70.9
Env-A 705.04 - 705.05	RSA 125-C:12, IV & V
Env-A 705.06	RSA 125-J:13, II(a)